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Federal Communications Commission  
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JUL 9 1997

RE: MM Docket 97-141

Annual Assessment--Status of Competition in Markets  
for Delivery of Video Programming/Video Description

Dear Mr. Secretary:

Transmitted herewith on behalf of the Motion Picture Association of America, Inc. are an original and ten copies of its Comments in response to the Commission's Notice of Inquiry in MM Docket No. 97-141 (released June 6, 1997).

Respectfully submitted,

Bonnie J. K. Richardson

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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

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In the Matter of

Annual Assessment of the Status of  
Competition in Markets for the  
Delivery of Video Programming

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MM Docket No. 97-141

COMMENTS OF  
MOTION PICTURE ASSOCIATION OF AMERICA, INC.

Bonnie Richardson  
Susan McDermott  
Motion Picture Association of America  
1600 Eye Street, N.W.  
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July 23, 1997

## TABLE OF CONTENTS

	<u>Page</u>
SUMMARY.....	ii
I. INTRODUCTION.....	2
II. VIDEO DESCRIPTION.....	2
(A) ANALOG SYSTEMS.....	2-4
(B) DIGITAL TECHNOLOGY.....	4-5
(C) FUNDING.....	6
(D) VIDEO DESCRIPTION PROVIDERS.....	6
(E) COPYRIGHT.....	6-7
(F) VOLUNTARY EFFORTS.....	7
III. CONCLUSION.....	8

SUMMARY

The member companies of the Motion Picture Association of America, the major producers and distributors of motion pictures and television programs in the United States, are responding to the challenge of providing greater access to the television medium for people with visual disabilities. MPAA member companies remain committed to the task of making available increased quantities of programming with video description with the advent of high definition television technologies. Given 1) the limitations of analog systems, 2) the technological and legal hurdles in digital television yet to be solved, and 3) the industry's voluntary undertakings to provide wider access to video description, determinations concerning video description implementation are impossible at this time.

**BEFORE THE**  
**Federal Communications Commission**  
**WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Annual Assessment of the Status of	)	MM Docket No. 95-176
Competition in Markets for the	)	
Delivery of Video Programming	)	

**COMMENTS OF**  
**MOTION PICTURE ASSOCIATION OF AMERICA, INC.**

The Motion Picture Association of America, Inc. ("MPAA"), pursuant to sections 1.415 and 1.419 of the Commission's Rules, hereby comments on the Commission's Notice of Inquiry, FCC 97-141 (released June 6, 1997) ("NOI"), in the above captioned proceeding. The American motion picture, television and home video industries are responding to the challenge of providing greater access to the television medium for people with visual disabilities and remain committed to the task of ensuring that greater access is achieved with the advent of digital technologies. Presently, however, this anticipated medium presents unique legal and technological hurdles, especially in the video description marketplace. These technological and legal uncertainties prevent definitive conclusions on specific methods and schedules. Accordingly, determinations concerning video description implementation are impossible at this time.

## I. INTRODUCTION

MPAA is a trade association representing major producers and distributors of theatrical films and entertainment for television, cable, home video and other delivery systems.<sup>1</sup> As such, MPAA is uniquely positioned to address the efforts undertaken by the industry to promote greater accessibility to its product for those with disabilities.

## II. VIDEO DESCRIPTION

Video description is a means to improve access by both blind and visually impaired persons to the television medium. MPAA agrees with the Commission that video description, which provides a narrative description of a program's key visual elements during natural pauses in the program's dialogue, has the potential to benefit the more than eight million visually impaired persons in the United States. Although closed captioning is widely and increasingly available to persons with hearing disabilities, video description, which is currently transmitted over the Second Audio Program ("SAP") channel, in addition to other various open methods of transmission, is a relatively new process, with only two national services in the video description market.

### A. ANALOG SYSTEMS

Video description currently is available to a limited degree on more than 143 Public Broadcasting Service ("PBS") stations as well as on Turner Classic Movies. PBS and Turner Broadcasting are among the few equipped facilities that can handle three channels of audio for closed descriptions. Closed descriptions must be recorded first onto a third audio channel of the

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<sup>1</sup> MPAA member companies include Buena Vista Pictures Distribution, Inc. (Disney); Sony Pictures Entertainment Inc.; Metro-Goldwyn Mayer, Inc.; Paramount Pictures Corporation; Twentieth Century Fox Film Corporation; Universal Studios, Inc.; and Warner Bros.

master videotape and then inserted into the SAP channel prior to transmission to the viewer. In the current world of analog television, most stations are equipped for stereo audio, or two channels, but use of a third channel for insertion into the SAP requires additional routing equipment at considerable expense. Among U.S. television stations, the ability to broadcast a third audio channel ranges from a few stations that are currently equipped, to numerous others that would be required to replace every piece of equipment they have, including tape machines, routing systems, and transmitters. Costs to retool plants in this manner are easily over a million dollars per station. Thus, currently, most stations cannot provide for third audio channels without considerable expense and hardship.

Turner Broadcasting has only one domestic television service, Turner Classic Movies, that can support a third audio channel. Turner Classic Movies estimates that total cost for video description per program hour is \$3,500. This figure does not include the initial grant moneys to provide for this service or the additional costs to synchronize and lay the video description onto the audio track, tape costs, or edit room operator costs. Even with third audio channel capabilities, video description costs are nearly double the costs for closed captioning services.

Among those stations utilizing SAP technology, most use the extra audio capacity for foreign language translations of the main audio accompanying televised video programming. Such translations benefit those for whom English is a second language, estimated at more than thirty million persons. In today's analog world, a SAP channel cannot be used simultaneously for video description and foreign language transmissions. It follows that at this time it is best to allow individual producers to decide the extent to which they wish to serve each market competing for the SAP channel than to foreclose one or the other.

As addressed in MPAA's comments in March 1996, the current realm of analog television also poses a special conundrum for video description beyond competition for the SAP channel. Although demand and efforts to increase the availability for video description are continually increasing, there are significant bottlenecks for development of this service. As the Commission noted, to receive video description in today's analog environment, the viewer must have a stereo television, a video cassette recorder capable of receiving the SAP channel, or a television adapter for the SAP channel. Presently, not all televisions are equipped with these mechanisms nor are televisions required to provide them. As household penetration of stereo television receivers increases over time, the marketplace can be expected to respond with increased product for the larger number of visually impaired viewers capable of receiving video described programming. Turner Classic Movies, while actively using its third audio channel for video description, acknowledges it has only been able to add video description to 33 titles because of the problems inherent in an analog system utilizing video description, as well as other limitations discussed below. Video description, in the analog environment, presents a host of challenging issues not as prevalent in the closed captioning context that not only explains why fewer titles have been video described than captioned, but also suggests the inadvisability of imposing mandatory video description rules at this time. Moreover, the transition to digital technologies offers more promising marketplace incentives and easier implementation of technologically equipped homes to facilitate a broader penetration of video description.

#### (B) DIGITAL TECHNOLOGY

The arrival of digital technologies for the high speed transmission of digital information offers a revolutionary way to send and receive various forms of information, including video



description. Despite a promising future for video description via digital technology, there presently remain technological and legal difficulties for this medium which have yet to be solved. These difficulties thus suggest the inexpediency of speculating about mandates as well as the feasibility of mechanisms or schedules.

With digital technology, it is possible to have multiple SAP channels, accommodating video description, foreign language and other SAP channel users, but there are currently limitations in the physical facilities for routing the signals for sound. Although technological advances in digital transmission are occurring every week, at present, no technology exists to accommodate even primary audio sound in the ATSC digital world. The industry hopes and expects that this development will soon facilitate the transition to a fully operational digital environment, but at this time, this technology exists only in the form of sketches on drawing boards.

The complete transition to digital television is only a few years away as mandated by the Commission. Some television stations are aggressively tackling the transition and expect fully operational stations by the end of 1998. The costs to operate these stations, in addition to analog stations in the interim transition period, are considerable, as are the costs to meet expected timetables for closed captioning. The industry is committed to ensuring wider access to television to persons with hearing and visual disabilities. Mandatory video description requirements, however, are presently impractical considering implementation of digital technologies alone requires exhaustive expense and technological development.

### (C) FUNDING

To date, the principal funding for video description has come from four main sources: The Corporation for Public Broadcasting (“CPB”), the National Endowment for the Arts (“NEA”), the U.S. Department of Education (“DOE”), and the National Science Foundation (“NSF”). Among these existing sources, none are secure to ensure future funding. The CPB is facing budget pressures and expects a significant drop in the amount of available funding due to closed captioning mandates. The existence of the NEA is continually threatened by political forces. The DOE and the NSF alone do not have large enough budgets to facilitate comprehensive video description.

### (D) VIDEO DESCRIPTION PROVIDERS

As mentioned, video description services are provided by only two national sources: Descriptive Video Service (“DVS”) and Narrative Television Network (“NTN”). Presently, there are too few providers to accommodate a significant increase of services. It is likely that as advances are made in the digital environment and as the marketplace demands more video description, the number of video description providers also will increase. At this time, however, video description mandates would encounter a severe bottleneck in the abilities of the industry to gain product with video description.

### (E) COPYRIGHT

MPAA’s March 1996 comments addressed the potential legal obstacles regarding video description and intellectual property issues. Whether in an analog or digital environment, video description requires a creative effort by the person generating the service which may be subject to federal copyright laws. Video description must re-create a copyrighted movie or program’s

action, set and costumes, scene changes, body language, facial expressions, and graphics so that a visually impaired individual can appreciate the entire work. By virtue of its creative nature, video description may be a “derivative work” under copyright law. The making of a derivative work is one of the exclusive rights of a copyright owner. In the face of these legal requirements and above mentioned technological uncertainties, it is premature for the Commission to establish any rules or timetables concerning video description.

#### (F) VOLUNTARY EFFORTS

MPAA has an ongoing dialogue with representatives of the visually impaired community and with video description providers to discuss the benefits of video description and to foster voluntary undertakings for wider access. Because of the technical difficulties of video description for television broadcasts, however, the voluntary efforts have concentrated primarily on increasing the availability of pre-recorded home video product with video description. Additionally, MPAA’s discussions with segments of the visually impaired community indicate differences of opinion concerning implementation of video description. For example, some congenitally blind individuals with no visual memory attest that current video description techniques may hamper the manner by which they experience television. Video description methods and techniques must be researched carefully before any implementation occurs to ensure that video description benefits visually impaired, congenitally and adventitiously blind individuals. Because voluntary efforts rely on the foreseeable future of digital services, a commitment to unregulated access, and research concerning video description techniques, it is premature to impose mandates on methods and schedules for video description.

### III. CONCLUSION

MPAA fully supports the Commission's determination that video description serve the public interest by offering persons with visual disabilities the ability to enjoy and benefit from television. MPAA members expect to voluntarily provide more programming with video description as demand for this service increases and as technological innovation shapes the digital world. At this time, however, analog technology does not support widespread video description and the cost of installing this technology is often prohibitive. The digital realm offers more promising results for providing greater accessibility to video described programs, but unfortunately, this medium requires further development and research. Additionally, intellectual property related issues preclude mandatory video description of copyrighted works. In light of these considerations, it would be inappropriate and unwise for the Commission to adopt video description requirements. These technological and legal uncertainties prevent definitive conclusions on video description methods and schedules and render specific assessments impossible.